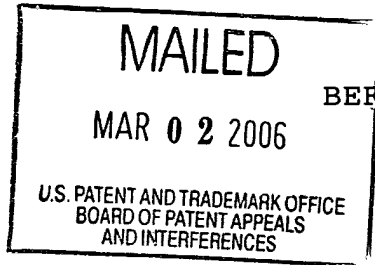


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM D. FISHER

Application No. 09/771,092

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on January 24, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On September 7, 2005, appellant filed an Appeal Brief. In response to appellant's Brief, the examiner entered an Examiner's Answer on November 30, 2005. On page 2, section (8) of the

Application No. 09/771,092

Answer, the examiner includes the required heading of "Evidence Relied Upon" but fails to list under that heading the prior art applied in the rejection of claims on appeal.

Moreover, in appellant's Notice of Appeal, sent via facsimile transmission on July 8, 2005, appellant petitioned for a one-month extension of time under 37 CFR § 1.136. A review of the electronic record reveals that appellant's deposit account has not been charged the requisite extension of time fee as required under 37 CFR § 1.136.

Accordingly, it is

ORDERED that the application is returned to the examiner to:

(1) to submit a Supplemental Examiner's Answer listing under the heading "Evidence Relied Upon" the prior art applied in the rejection of claims on appeal;

Application No. 09/771,092

(2) to have the requisite extension of time fee of \$120 charged to appellant's Deposit Account No. 50-1078, and to have the electronic record updated to reflect such charge; and

(3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

CRAIG R. FEINBERG

Program and Resource Administrator
(571) 272-9797

cc: AGILENT TECHNOLOGIES
Legal Department, 51U-PD
Intellectual Property Administration
P.O. Box 58043
Santa Clara, CA 95052-8043

CRF:clm